

From: [Marshall, Paul](#)
To: [Mark Simms](#); [Kim Cole](#)
Cc: [Craig Samek](#); [Justin Vondrak](#)
Subject: RE: BOE Consent Order for Review
Date: Monday, November 26, 2018 4:31:00 PM

All:

Pat Miller provided me the following comments concerning the draft Consent Order with BOE.

Paragraph 3 – The term “operational issues” is very vague. The term appears to refer to potential operational problems that could result in permit violations. More clarity would be beneficial if the City would ever need to enforce the terms of the order. Additionally, the term “on-line monitoring” is not defined. We assume on-line monitoring refers to the automated, instantaneous monitoring system that Big Ox is required to install. To make that point clear, we suggest using the same terminology throughout the paragraph.

Paragraph 6 – Without more information, the penalty payment/credit provisions are very confusing. The use of terms such as “last summer” and “the following month’s sewer use invoice” may be understood by the parties, but if this order ever needs to be enforced, it is unlikely a third party would understand what was intended based on the four corners of the document. We suggest adding more specific information such the dates of process improvement installation and the specific month/year in which the credit was applied. Also, it is unclear whether Big Ox remains liable for the remainder of the assessed \$61,500 penalty.

Thanks,
Paul

From: Marshall, Paul
Sent: Tuesday, November 20, 2018 11:00 AM
To: 'Mark Simms' <msimms@sioux-city.org>; Kim Cole <kim.cole@kimhec.com>
Cc: Craig Samek <csamek@sioux-city.org>; Justin Vondrak <jvondrak@sioux-city.org>
Subject: RE: BOE Consent Order for Review

I will send it to her and see what she says on Monday when she returns.

Paul

From: Mark Simms [<mailto:msimms@sioux-city.org>]
Sent: Tuesday, November 20, 2018 10:52 AM
To: Marshall, Paul <Marshall.Paul@epa.gov>; Kim Cole <kim.cole@kimhec.com>
Cc: Craig Samek <csamek@sioux-city.org>; Justin Vondrak <jvondrak@sioux-city.org>
Subject: RE: BOE Consent Order for Review

Paul,

Thank you for your review and comments. We are reviewing those now and will discuss revisions to this CO that consider your comments.

We would welcome having your attorney review this and are willing to delay sending it as our final draft to BOE until we have those added comments. If it appears that your attorney cannot get to this early next week would you let us know? While we have seen improved communication and some effort to control discharges at BOE, we are still quite concerned about the frequent process and/or treatment failures which impact the City's POTW.

Mark Simms
Utilities Director
City of Sioux City
O: 712.279.6957

From: Marshall, Paul [<mailto:Marshall.Paul@epa.gov>]
Sent: Monday, November 19, 2018 5:45 PM
To: Kim Cole <kim.cole@kimhec.com>
Cc: Mark Simms <msimms@sioux-city.org>; Craig Samek <csamek@sioux-city.org>
Subject: RE: BOE Consent Order for Review

I took a look at the Order and made some suggested changes. I would like to have my attorney look at it but she's out until next Monday.

Let me know what you think.

Paul

From: Kim Cole [<mailto:kim.cole@kimhec.com>]
Sent: Monday, November 19, 2018 11:10 AM
To: Marshall, Paul <Marshall.Paul@epa.gov>
Cc: Mark Simms <msimms@sioux-city.org>; Craig Samek <csamek@sioux-city.org>
Subject: BOE Consent Order for Review

Paul,

Please see attached for review and comment. This has gone back several times but due to on-going exceedances over weekends we added the equalization clause and the requirement that they track influent loadings. The City has experienced equipment downtime and they are particularly concerned about going into the winter season.

If you have time to review and can offer some input please let me know; we would obviously like to get this finalized as soon as possible.

Thanks,
Kim

Kim Cole (Hoskins), P.E.
KimHEC | 314.276.9575 | kim.cole@kimhec.com